

Memorandum

TO: CITY COUNCIL

FROM: Mayor Chuck Reed
Councilmember Pete Constant
Councilmember Ash Kalra
Councilmember Sam Liccardo
Councilmember Rose Herrera

**SUBJECT: RETIREMENT BOARD
GOVERNANCE**

DATE: February 4, 2010

Approved

Chuck Reed
Sam Liccardo
Ash Kalra
Rose Herrera

Date

RECOMMENDATION

Approve the staff recommendations for the Retirement Board Governance with the following changes:

- a) For the Federated City Employees Retirement System, replace the two City Council board members and the Civil Service Commission board member with three public members. A fourth public member will be interviewed and recommended by the Federated Board and presented to the City Council. In the event that a majority cannot recommend a fourth member, then the top two applicants will be forwarded to the City Council for the Council to decide on which member shall be appointed.

Agency	Composition	Board Members
Federated City Employees Retirement Board	7 Appointed Members	Retiree Representative Employee Representative Employee Representative Public Member (Appointed by Council) Public Member (Appointed by Council) Public Member (Appointed by Council) Public Member (Federated Board Recommendation)

- b) For the Police and Fire Department Retirement Board replace the two City Council board members, the Civil Service Commission Board members and City Administration Board member with four public board members. Also expand the Police and Fire Retirement Board by two members (9 member board) by adding an additional retiree board member so there is always one police and fire retiree. The fifth public member will be a public member who is to be interviewed and recommended by the Police and Fire Retirement Board and presented to City Council. In the event that a majority cannot recommend a final member, then the top two applicants will be forwarded to the City Council for the Council to decide on which member shall be appointed.

Agency	Composition	Board Members
Police and Fire Department Retirement Board	9 Appointed Members	Retiree Representative (Fire) Retiree Representative (Police) Fire Representative Police Representative Public Member (Appointed by Council) Public Member (Appointed by Council) Public Member (Appointed by Council) Public Member (Appointed by Council) Public Member (Police & Fire Board Recommendation)

- c) The final public member positions on each Board will be filled after the City Council has appointed the public members to each Board so that they may participate in the interview process.
- d) Add a City Council liaison as a non-voting member to each of the retirement boards.
- e) Applications for public board member positions shall be submitted to the City Clerk's Office. The City Clerk's Office will be responsible for determining which applicants meet the minimum qualifications. The City Clerk will present her determinations on applicants meeting the minimum qualification to the Retirement Boards for comment. The City Clerk will then forward all applications with her determinations on those meeting minimum qualifications and the Retirement Board comments to City Council for consideration.
- f) Amend the minimum qualifications for the public board member as follows:
 - 1. Amend the residence requirement to 50 mile radius from San Jose City Hall.
 - 2. Amend the experience requirement from 15 to 12 years.
 - 3. It is important that members possess high levels of knowledge, expertise, and experience relevant to the administration of a public retirement plan. While there may be a need to emphasize investment and funding matters, it is also important that boards also possess members with relevant knowledge in benefits, accounting, operations, law, and human resource management. Examples of individuals with relevant background include, but are not limited to:
 - 1. Senior Executives of insurance or banking companies with asset/liability management experience.
 - 2. Senior Executives or professionals with audit, accounting, legal, actuarial, investment, or risk management backgrounds.
 - 3. Academics in the fields of finance, actuarial science, law, human resources or accounting
 - 4. Senior Executives with experience in financial services, health and welfare, employee pension, benefit or welfare plans or benefit delivery organizations.

- g) Add a monthly report on Retirement Board Investments to the Public Safety, Finance and Strategic Support Committee agenda.
- h) There are basic services the Retirement Board Director provides to both Retirement Boards. Many of these services are needed for the Retirement Boards to effectively perform their responsibility as a board. The Rules Committee should serve as an additional forum similar to the Public Records Act appeal process through which both boards may formally submit concerns regarding basic requests for services or information which are not being provided by the Administration. If within a 12 month period, 3 formal concerns about the Administration not providing basic services to the Retirement Board are received, a discussion will be agendized to discuss options to grant the Retirement Board broader authority. Options to be discussed will include but not limited to the recommendations as detailed in I-2 in the revised Cortex report, assistance of 3rd party auditors and administrators or the director salary may no longer be paid out of plan assets.
- i) Direct the City Attorney to codify the appointment process for public members of the respective boards as outlined above. Direct the City Attorney to create an ordinance establishing the appointment process for employee and retiree representatives of the respective board that codifies the established process currently in practice. The ordinance should specify that appointment of employee and retiree representatives shall be routine business on the consent calendar but also provide discretion allowing the City Council to only reject the recommended employee and retiree representative if there is a finding of cause. The ordinance should also include a necessary finding of cause for removal of a board member. Cause may include failure to act in accordance with fiduciary duties or failure to carry out the requirements of governing legislation.

BACKGROUND

The drastic drop in pension values has resulted in projections that the City of San José will need to dramatically increase pension contributions. Pension contributions represent a sizable portion of the City's budget and are projected to grow considerably in the five-year forecast. It is in the best interests of the City, taxpayers, employees and retirees that our retirement boards be structured so that they are well managed utilizing best practice standards. The City retained Cortex Applied Research to review the fiduciary governance models of the City's two retirement plans: the Federated City Employees Retirement Board, and the Police and Fire Department Retirement Board. Cortex has proposed a series of recommendations for the retirement boards to help ensure the long-term health and success of the retirement systems.

The amendments as proposed in this memorandum expand the expertise of board members and ensure a majority of the board are independent members. It also honors the nomination process of employees and retirees and encourages a collaborative approach to board governance. Given the importance of the two retirement systems to employees, retirees, and taxpayers, and the impact the retirement boards have on our budget deficit, we should adopt an improved governance model for the retirement boards as amended by this memorandum.